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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,819	04/13/2004	Takanori Tsuyuki	251767US3	3461

22850 7590 10/12/2006

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EXAMINER

VO, ANH T N

ART UNIT PAPER NUMBER

2861

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/822,819

Applicant(s)

TSUYUKI ET AL.

Examiner

Anh T.N. Vo

Art Unit

2861

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 6-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

NON-FINAL REJECTION

Election /Restriction

Claims 6-15 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to non-elected invention, the requirement having been made without traverse in Paper mailed 04/07/2006. Applicants request that claims 1-5 be included in elected Group I and be examined at this time. It is not acceptable because claims 6-15 claim that a sealing apparatus and a method for sealing has been included in Group 2, the election has been treated as an election without traverse (MPEP § 818.03(a)). The applicant should be cancelled claims 6-15.

Response to Applicant's Arguments

The rejection to claims 1 and 4-5 are rejected under 35 USC 102 (b) as being anticipated by DeCoste, Jr. (US Pat. 5,307,091) have been withdrawn since the applicant's argument to claims.

The rejection to claims 1 and 4-5 are rejected under 35 USC 102 (b) as being anticipated by Denpou et al. (US Pat. 6,306,473) have been withdrawn since the applicant's argument to claims.

The prior art reference newly found necessitated a new ground of rejection is below:

CLAIM REJECTIONS

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior arts are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 USC 103 (a) as being unpatentable DeCoste, Jr. (US Pat. 5,307,091) in view of Drummond et al. (US Pat. 6,264,098).

DeCoste, Jr. disclose in Figure 2 an ink supply bag comprising:

- a liquid containing bag (21);
- a liquid filling opening part (13) having a tube configuration through which an inside of the liquid containing bag (21) is filled with liquid (ink); and
- wherein the liquid filling opening part (13) is melt-sealed from directions which face each other in a part of the liquid filling opening part, and the part which is melted has a symmetrical configuration (column 2, lines 22-28).

However, DeCoste, Jr. does not disclose the opening part which is melted has a non-symmetrical configuration and a liquid filling opening part that is made of a material whose melt flow rate is equal to or higher than 5.5 g/10 minutes and equal to or lower than 7.0 g/10 minutes and whose temperature difference between a melting point and a Vicat softening point is equal to or higher than 8 degree C. and equal to or lower than 12 degree C..

Nevertheless, Drummond et al. disclose, in Figures 1-2, 3A-5C a tubular container (10) with a heat seal (22 and 26) comprising the opening part which is melted has a non-symmetrical configuration (see Title and column 3, lines 9-20 and 48-58).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to incorporate the teaching of Drummond et al. in the DeCoste, Jr ink supply bag for the purpose of preventing ink from leaking out of the bag and also preventing liquids from entering the bag and possibly contaminating ink contained therein.

DeCoste, Jr in view of Drummond et al. discloses the features of the claimed invention except “a liquid filling opening part that is made of a material whose melt flow rate is equal to or higher than 5.5 g/10 minutes and equal to or lower than 7.0 g/10 minutes and whose temperature difference between a melting point and a Vicat softening point is equal to or higher than 8.degree. C. and equal to or lower than 12.degree. C. It has been held that a recitation “a liquid filling opening part that is made of a material whose melt flow rate is equal to or higher than 5.5 g/10 minutes and equal to or lower than 7.0 g/10 minutes and whose temperature difference between a melting point and a Vicat softening point is equal to or higher than 8.degree. C. and equal to or lower than 12.degree. C ” is the selection of a known material based on its suitability for its intended use and does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham, 2 USPQ2d 1647 (1987).*

Claims 1-5 are rejected under 35 USC 103 (a) as being anticipated by Denpou et al. (US Pat. 6,306,473) in view of Drummond et al. (US Pat. 6,264,098).

Denpou et al. disclose in Figures 1- 2 a container comprising:

- a liquid containing bag (10);
- a liquid filling opening part (20) having a tube configuration through which an inside of the liquid containing bag (10) is filled with liquid (fluid); and
- wherein the liquid filling opening part (13) is melt-sealed from directions which face each other in a part of the liquid filling opening part, and the part which is melted has a symmetrical configuration (column 2, lines 45-46).

However, Denpou et al. do not disclose the opening part which is melted has a non-symmetrical configuration and a liquid filling opening part that is made of a material whose melt flow rate is equal to or higher than 5.5 g/10 minutes and equal to or lower than 7.0 g/10 minutes and whose temperature difference between a melting point and a Vicat softening point is equal to or higher than 8 degree C. and equal to or lower than 12 degree C..

Nevertheless, Drummond et al. disclose, in Figures 1-2, 3A-5C a tubular container (10) with a heat seal (22 and 26) comprising the opening part which is melted has a non-symmetrical configuration (see Title and column 3, lines 9-20 and 48-58).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to incorporate the teaching of Drummond et al. in the Denpou et al. container for the purpose of preventing ink from leaking out of the container and also preventing liquids from entering the container and possibly contaminating fluid contained therein.

Denpou et al. in view of Drummond et al. disclose the claimed invention except “a liquid filling opening part that is made of a material whose melt flow rate is equal to or higher than 5.5 g/10 minutes and equal to or lower than 7.0 g/10 minutes and whose temperature difference between a melting point and a Vicat softening point is equal to or higher than 8.degree. C. and equal to or lower than 12.degree. C. It has been held that a recitation “a liquid filling opening part that is made of a material whose melt flow rate is equal to or higher than 5.5 g/10 minutes and equal to or lower than 7.0 g/10 minutes and whose temperature difference between a melting point and a Vicat softening point is equal to or higher than 8.degree. C. and equal to or lower than 12.degree. C ” is the selection of a known material based on its suitability for its intended use and does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham, 2 USPQ2d 1647 (1987).*

Response to Applicant's Arguments

The applicant's arguments with respect to the prior art rejection have been carefully considered and have been traversed in view of the new grounds of rejection over Drummond et al reference.

CONCLUSION

Art Unit: 2861

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Anh Vo whose telephone number is (571) 272-2262. The examiner can normally be reached on Tuesday to Friday from 9:00 A.M. to 7:00 P.M.. The fax number of this Group 2861 is (571) 273-8300.

A handwritten signature in black ink, appearing to be 'Anh T.N. Vo', with a long horizontal flourish extending to the right.

ANH T.N. VO
PRIMARY EXAMINER

October 5, 2006